

**Washington County Land Use Authority Meeting**  
**August 24, 2010**  
**(Recording available)**

The Washington County Land Use Authority Meeting was held on Tuesday, August 24, 2010, at the Washington County Administration Building, 197 E. Tabernacle, St. George, Utah. The meeting was convened at 1:30 p.m. by Chairman Mike Stucki. Commissioners present: Kim Ford, Debora Christopher and Rick Jones. Also present: Deon Goheen, Planning & Zoning Administrator; Kurt Gardner, Building Official; Todd Edwards, Public Works Engineer; John Willie, Senior Planner; and Darby Klungervik, Planning Secretary.

Excused: Julie Cropper, Joann Balen, Doug Wilson, Rachelle Ehlert

Absent: Dave Everett

Audience attendance: Steven Pickard, Kim Hafen, Arthur LeBaron, Brian Ahern, Drake Howell and Mike Small

Chairman Stucki led the audience in the Pledge of Allegiance and explained meeting protocol.

**Item #1. SPECIAL MEETING:** **STAFF COMMENTS.** Review staff comments for each item listed below. Staff initiated.

**Item #2. PUBLIC HEARING.** Open hearing for Washington County General Plan on the public lands portion and maps, part of the Washington County General Plan. County initiated.

The Planner reminded the commission that they will need to open a public hearing as referenced by State Code, whereas amending a portion of the Washington County General Plan requires a minimum ten days published notice and 24 hour posting of agenda before other public meetings and this requirement has been met.

Chairman Stucki opened the public hearing at 1:31 p.m.

John Willie, Senior Planner, said he didn't have a lot to add at this point, whereas the commission has spent the last three months reviewing the plan. He said the county has provided various public agencies copies of the plan; the plan is available on the county web site and also available for review in the Planning office. He briefly reviewed the sections of the General Plan and their content. Mr. Willie is currently working on updating the management plan for the individual communities in the unincorporated areas of Washington County and when they have completed specific plans for each community they will be brought to the commission for a public hearing and adoption. He discussed the possible road alternatives included in the plan and said they may or may not ever be built. He thought it was a good idea to hear public comments today and then bring this item back next week after they have had an opportunity to consider the comments. In response to the commission, he said he did not think the economy has not had a big affect on the plan. He included that the County did adopt the principles of Vision Dixie. He said the walk ability part of Vision Dixie is hard to do in communities that are almost fully developed. Mr. Willie explained that although the individual community plans are not completed

August 24, 2010 (continued)

it is important to adopt this portion, which essentially deals with public lands, because in order to have cooperation and consolidation from other public entities, particularly the Bureau of Land Management, while they are writing their plans, it needs to be adopted.

Arthur LeBaron, Engineer for Hurricane City, brought to the commission's attention the Southern Corridor which comes into Hurricane and ties into SR 9 at 2800 West and the proposal that has been made is to continue the Southern Corridor across the Virgin River and go up the Babylon Mills Road (County Road 0389). He said it would be great to push and plan to have it tie into the Northern Corridor proposal. He acknowledged that it will cross the HCP. He added that the connectivity will have huge economic impact, provide quicker emergency services and provide the public the opportunity to see the beauty of the HCP. Mr. LeBaron said it would be similar to Red Hills Parkway, which is positive for tourism. He is the chair of the advisory committee of the Eastern Washington County Rural Planning Origination and asked that the General Plan take their efforts into consideration.

Drake Howell, representing a group of landowners who own three hundred and sixty acres (360) of land north of the HCP, along Babylon Road. This land was recently annexed into Leeds and their development plan incorporates a lot of the principles of Vision Dixie. He briefly described the development plan. He emphasized the importance of the General Plan, collaboratively with the Resource Management Plan that the Bureau of Land Management is currently updating, identifies the Babylon Road as a future transportation corridor. He said all they need is a sixty six (66) foot right of way connecting Leeds to Hurricane. He included a corridor like this would also provide a fire break as well. Not only is this North/South connection a priority, but also an East/West corridor, that also transverses the Grape Vine Wash project.

Mike Small, Resident of Washington County, prepared and read the following:

Dear Sirs:

Thank you for the opportunity to comment. My name is Mike Small and I have been a resident of Washington County, Utah, for 24 years. I am making these comments today on behalf a local organization - Citizens for Dixie's Future (CDF).

There are two main points I want to make. First, I want to encourage you to incorporate the principles of Vision Dixie in the general plan. Vision Dixie was a recent public planning process designed to focus future growth in the county. It makes good sense for you to now follow the concepts of Vision Dixie in revising this general plan because significant money was spent and the Vision Dixie process documented what most citizens want to happen. I believe the Vision Dixie process clearly demonstrated the citizens of Washington County want to preserve open space and their quality of life.

Second, I want to strongly discourage any consideration of building a so-called

August 24, 2010 (continued)

"Northern Corridor" in desert tortoise habitat located within the congressionally designated Red Cliffs National Conservation Area (NCA). As you know, approximately 42,000 + acres of federal land in the former Red Cliffs Reserve was designated as the Red Cliffs NCA in 2009.

I will now spend the rest of my time discussing the reasons for not proceeding with the Northern Corridor in desert tortoise habitat.

In my mind, the thought of a northern corridor road or highway bisecting the current Red Cliffs Preserve seems to be an idea that will not die, but such a road would not only degrade the tortoise habitat which has been set aside, it would establish a very undesirable precedent for Habitat Conservation Plans (RCPs) nationwide.

To begin with, clearly the former Red Cliffs Reserve was created mainly protect the desert tortoise. Specifically, the Red Cliffs Reserve was established by means of a HCP primarily to protect a block of desert tortoise habitat so that development could proceed on the other and much larger remaining acreage of desert tortoise habitat in Washington County. More specifically, the approximately 62,000 acre HCP was established as mitigation to offset any harmful effects due to growth and development on roughly 350,000 acres of habitat in Washington County.

In other words, development in tortoise habitat in most of Washington County was permitted to continue because the Red Cliffs area was set aside and protected. Obviously, much of that development in Washington County has taken place and cannot be undone. Today I believe there are no large blocks of undeveloped tortoise habitat remaining to mitigate loss of significant acreage within the NCA.

To discard portions of the successfully working HCP at this point creates a disturbing precedent for the 400-some HCPs nationwide. It may also lead to the revocation of Washington County's "take permit" issued under Section 7 of the Endangered Species Act and preclude further development in tortoise and other special status species habitat in other areas in the county.

The Mojave Desert tortoise population is federally listed as threatened under the Endangered Species Act. I understand the Mojave population of the desert tortoise at present is continuing to decline rangewide. The proposed northern corridor road would fragment the desert tortoise habitat in, and negate the value of, the NCA. If the road were built through important tortoise habitat in the reserve, the tortoises would face new problems of light, noise, vibration, vehicle traffic and lessened air quality. Previous desert tortoise population viability analyses would be rendered moot. Physically splitting the tortoise habitat into two parts with a road or highway and tortoise fences would also separate the population into two portions, lessening genetic interchange.

In addition, over the past several years, to create the Red Cliffs Reserve numerous

land exchanges have taken place and tens of millions of dollars have been spent to establish the Red Cliffs Reserve. The money spent was to be used for conservation purposes and came from the federal government through Section 6 of the Endangered Species Act, and also included some Land and Conservation Fund monies. Land acquisition for road construction is not a legitimate conservation purpose. Would the taxpayers of Washington County have to reimburse these funds?

In most discussions, if built, the road would conceptually run east from Highway 18 near the Ledges across the NCA to the new exit in Washington City at MP 13. The recent construction of what looks like the beginnings of a new overpass structure on State Route 18 south of the Ledges subdivision at milepost 7 indicates that some officials believe such a road will eventually be authorized. However, this proposed road location from the east Washington City exit would appear to go up a steep grade of over 20% just north of Washington City in the Red Cliffs NCA. Normally, highway grades do not exceed 10%. Would a series of road switchbacks be required? If so, then what would be the proposed road's right-of-way width? How much total land area would be used for the proposed road and would effectively be removed from use as desert tortoise habitat? Would not equal valued tortoise habitat from elsewhere in Washington County have to be added to the Red Cliffs Reserve in order to compensate for the loss of habitat caused by constructing the proposed road? Is such equal valued mitigation habitat available in Washington County?

If an elevated highway on pillars were constructed to deal with the steep grade located north of Washington City, some of the direct impacts to the desert tortoise by not physically splitting the habitat would be reduced. However, constructing an elevated roadway would add greatly to the costs of the project and significantly degrade the scenic qualities of the Reserve/NCA. I think the visual unsightliness of an elevated roadway would be especially noticeable against the spectacular red rocks of the valley and Pine Valley Mountain in the background. At night a stream of headlights and taillights would be seen from almost any point in the St. George basin.

The proposed road would also be unwelcome to the citizens who view, hike, horseback ride, etc., the Red Cliffs NCA and enjoy it the way it is. Many of them fought hard to get it established and do not want to see their efforts lost.

In a similar light, most property owners adjacent to the Red Cliffs Reserve/NCA, especially those who recently bought high value land on the north end of Washington City, do not want to see their property values go down due to being next to a busy roadway. Many were assured when they bought that no roads or highways would ever affect them because the Reserve was a protected area.

I understand that on March 28, 2006, the Habitat Conservation Advisory Committee

August 24, 2010 (continued)

consisting of seven members voted unanimously against allowing this roadway. This committee is very aware of the purpose of the Reserve and the needs of the desert tortoise. However, the Washington County Commission later chose not to follow the committee's advice. And the Committee, under what I believe was intense political pressure, more subsequently changed their vote. Some local officials appear to have selective memories as to what was discussed and decided upon in years past when the Red Cliffs Reserve was established and when the HCP was signed. Nonetheless, I think good minutes exist from most of these meetings and the record can show what was agreed to. I would urge these records be examined.

Because Washington County has many other special status species (approx. 40) to contend with, reneging on this HCP agreement would set a poor local precedent for other potential agreements with the USFWS that this County may someday need. Reneging on the HCP agreement without doubt will also lead to quite lengthy and very expensive litigation.

The effect nationwide of Washington County breaking its promise to preserve a large block of desert tortoise habitat as an HCP is hard to evaluate but could have ramifications for HCPs everywhere.

It is also possible that the U. S. Fish and Wildlife Service would consider revoking the incidental take permit (which is essentially the HCP agreement) issued under section 10(a)(1)(B) of the Endangered Species Act if it were determined that the HCP were to be too degraded.

My view is that the HCP process under the Endangered Species Act has generally worked well in Washington County up to this point and provides a win-win scenario. Certainly with regard to the threatened desert tortoise, the Clark County Nevada HCP and the Washington County HCP have worked well in protecting some habitat while allowing larger areas in those counties to be developed. The RCPs (funding mechanisms are often overlooked) and I realize the economy is currently depressed, but overall the RCPs also have provided funding through impact fees to preserve habitat and take species recovery actions. Most importantly, the RCPs have made it possible to allow development to proceed in much of the two counties without having to do individual consultations with the U.S. Fish and Wildlife Service on each separate development project in the habitat of the listed species.

The Red Cliffs NCA as it currently exists is really a wonderful place whose value will only increase as St. George and the other communities of Washington County grow and fill in most of the open spaces. Decades in the future, the citizens of Washington County can have a huge acre park of stunning red rock scenery poised on the edge of urban development.

August 24, 2010 (continued)

Fifty years from now in the year 2057, within the average life expectancy of many current residents of Washington County, the value of such a block of open land, available for public viewing, hiking, exploring, and horseback riding will be much more valuable than we now can imagine.

Washington County can be the envy of the country with this giant "Central Park", but only if its integrity is preserved and if the various proposals (such as roads, water pipelines, and power transmission lines) which would diminish its values, however well intentioned) continue to be resisted.

In conclusion, I recommend that only alternatives to the northern corridor road in the NCA outside identified desert tortoise habitat be considered. Fortunately, such an alternative exists. This alternative would approximate the route of the existing Danish Ranch road from 1-15 near Leeds and extend west above the northern boundary of the NCA to Highway 18 in the Winchester Hills area.

John Willie, Senior Planner, responded to the public comments by explaining that Babylon Road is a county road and it has no width because BLM land is on both sides. Also, someone would have to pay to build a bridge and he doesn't know if the county is going to do that any time soon. He elaborated on some of the counties proposed alternative routes. He added that the BLM is required by Congress to show an alternate route across the HCP and no roads will be built without the approval of the Bureau of Land Management and Fish and Wildlife Services.

Drake Howell, with Grape Vine Wash landowners, said they do recognize that Babylon Road is a special use road. Their interest is to determine if that road can be fully improved despite the National Conservation Area designation. His hopes is to influence the Bureau of Land Management to indeed allow Babylon Road to be become developed some time in the future.

Denny Drake, County Commissioner, complimented John Willie, the staff and the Planning Commission for their work on the proposed revisions to the General Plan. He wanted to ensure the public that there will be still be public hearings before the County Commission actually adopts the plan. This process is an ongoing process and with this process we are going to develop what we see as the future of Washington County. The plan will include growth areas, water, transportation and utilities. Mr. Drake explained the necessity of constantly updating and processing the General Plan, so the public can know what we are planning, what we see for the future and how it is going to be effective. He said in regards to the proposed corridors there are mandates that have been given and they will be followed. At the same time the opportunities for Washington County will not be hindered.

Deon Goheen, Planning Administrator, informed the commission that they do have further comments coming from the conservancy district.

Chairman Stucki closed the public hearing at 2:30 p.m.

August 24, 2010 (continued)

**Item #3. ORDINANCE AMENDMENT.** Consider an approval on an amendment to the Washington County General Plan by adopting the public lands portion of the General Plan and maps. County initiated.

The Planner said John Willie has presented all the materials on the General Plan for the public lands portion reviewing Section I. Introduction to the General Plan; Section II. General Information regarding Public Lands in Washington County; Section III. The Bureau of Land Management; Section IV. The National Forest; Section V. Zion National Park; Section VI. School and Institutional Trust Lands; Section VII. General Information regarding Private Land in Washington County; and Appendix I. General Analysis of Each Wilderness Area, Community Maps and General Plan Map. This has been properly advertised and effected entities notified.

**Motion was made by Commissioner Ford to table this item for further review. Commissioner Christopher seconded the motion, with all three (3) commissioners and the chairman voting aye.**

**Item #4. PROCEDURES & RULES OF ORDER.** Annual review of Planning Commission Procedures and Rules Of Order. County initiated.

The Planner reminded the commission that at the previous meeting the commission members wanted to add the paragraph to planning procedures, which appears at the top of each agenda on time limits (*In order to be considerate of everyone attending the meeting and to more closely follow the published agenda, public comments will be limited to 2 minutes per person per item. A spokesperson representing a group to summarize their concerns will be allowed 5 minutes to speak. Repetitious commentary will not be allowed*). As previously noted, for insurance purposes, the Planning Commission needs to review their procedures and rules of order as part of an ongoing education program, which will benefit the County.

**Motion was made by Commissioner Ford to approve the Policies and Procedures and the Rules of Order. Commissioner Jones seconded the motion, with all three (3) commissioners and the chairman voting aye.**

**Item #5. WORK MEETING: DISCUSSION ITEM/WIRELESS COMMUNICATION FACILITIES.** Review and consider amendment on wireless communication facilities to establish minimum requirements and regulations of such systems, Chapter 21 of the Washington County Zoning Ordinance. County initiated.

The Planner explained that Rachelle Ehlert was planning on doing a presentation on this item, but was unable to attend. She would like the commission and the staff to review St. George City's ordinance, which is available on the web. The Planner asked the commission to review that information and this item will be on the agenda again in two weeks.

**This item was forwarded to the next meeting.**



August 24, 2010 (continued)

**Item #6. STAFF DECISIONS.** Review of decisions from the Land Use Authority Staff Meeting held on August 17, 2010. County initiated.

The staff meeting convened at 9:30 a.m. Staff Members Present: Deon Goheen, Planning & Zoning Administrator; Kurt Gardner, Building Official; Todd Edwards, County Engineer; Rachelle Ehlert, Deputy Civil Attorney; Blair Gubler, Ash Creek Representative; Darwin Hall, Ash Creek Special Service District Director; Tina Esplin, Washington County Water Conservancy District; Laurence Parker, Southwest Utah Public Health Department; Becky Marchal, Questar Preconstruction Specialist; and Paul Wright, Department of Environmental Quality.

Excused: Ron Whitehead, Public Works Director

**LOT LINE ADJUSTMENT:**

**A. Request Tax ID recognition for metes and bounds lot line adjustments on four (4) parcels out in Section, Township 40 South, & Range 12 West, Smiths Mesa unincorporated Washington County. Ellen Wheeler, applicant.**

The applicant submitted plat maps of the area to be surveyed showing color coded renderings of the sections involved and explained the history on the surrounding properties that were once a part of the Delmont Wallace Trustee properties. Sections 15, 21 and 22 were reviewed showing what the configuration of parcels were in the 50's, 79, 91 and what they consist of now. The applicant would like to purchase a portion of the estate and have four (4) Tax ID's recognized as legal parcels after a metes and bounds lot line adjustment and those parcels numbers are: 2052-A, 2053-B, 2053-A-1-A-1, and 2056-A. There is one cabin existing on 2053-A-1-A-1 and eventually the applicant would like to build a new home on one of the parcels. The applicant indicated they would divide the parcels more equally and meet the zoning regulations of 20 acres. If recognized, they would like to have the option to sale off one of the parcels in the future. The planner indicated that setback requirements would be 25' on the sides and rear, within the current zone of A-20 district. **Staff felt there should be no problem in recognizing the Lot Line Adjustment on four (4) metes and bounds parcels with the research that was presented and no new lots being created, subject to filing of a survey plat with staff the Washington County Map Depository within the required 90 days of survey.**

**Item #7. COUNTY COMMISSION ACTION REVIEW.** Review of action taken by the County Commission on Planning Items. County initiated.

The Planner reviewed the action taken on Planning Items by the Washington County Commission on August 17, 2010, beginning at 4:00 p.m.: (a) Annual election for a Chairman and Vice-Chairman to be elected from the appointed members of the Commission by a majority of the total membership... County initiated; and (b) Conditional use permit for an exception to the height requirement on two (2) poles for amateur radio facilities and one (1) 45' free standing



August 24, 2010 (continued)

crank up tower in Dixie Deer Estates on Rex Layne Dr in Central...Bruce Bissell and David Jensen, applicants.

**The Planner informed the commission that these items were approved by the County Commission, as recommended by the Planning Commission.**

**Item #8. COMMISSION & STAFF REPORTS:** General reporting on various topics. County initiated.

Commissioner Christopher made a motion to adjourn the meeting. Commissioner Ford seconded the motion, with all three (3) commissioners voting aye. There being no further business at 2:35 p.m., Chairman Stucki adjourned the meeting.

---

Darby Klungervik, Planning Secretary